

**NEVADA DEPARTMENT OF
CONSERVATION & NATURAL RESOURCES**

STATE ENVIRONMENTAL COMMISSION

HEARING ARCHIVES FOR

REGULATORY PETITIONS

COMMISSION PETITION NO. 2000-11

LEGISLATIVE COUNSEL BUREAU (LCB) FILE NO. R-118-00

DOCUMENTS INCLUDED IN THIS FILE:

YES SECRETARY OF STATE FILING FORM

YES DISCLOSURE STATEMENT PURSUANT TO NRS 233B

REGULATORY PETITIONS

ORIGINAL DRAFTED BY COMMISSION

ADOPTED BY COMMISSION

YES AS FILED AND CODIFIED BY LCB

Secretary of State
Filing Data

**For Filing Administrative
Regulations**

For Emergency
Regulations Only

Effective Date

Expiration Date

Governor's Signature

State Environmental Commission

Classification ☐ Proposed ☐ Adopted By Agency ☒ Temporary ☐ Emergency ☐

Brief description of action: **Petition 2000-11 (LCB R-118-00)** is a permanent amendment to NAC 445B.010 to 445B.395 the air pollution control regulations. The petition proposes to amend NAC 445B.264, monitoring system: recordation of data, by removing language regarding six-minute opacity averages being used in calculations. NAC 445B.354, the maximum opacity of emissions is amended to incorporate Title 40 CFR Part 60, Appendix A, Reference Method 9 and that emission units being subject to Title 40 CFR Part 60, subparts D or Da are limited to 27 percent opacity. The existing language requires the use of an aggregate reading to determine opacity, for which no standard reference method exists.

Authority citation other than 233B: NRS 445B.210(1) & (2)

Notice date: July 20, July 25, July 26 and August 3, 2000

Hearing date: August 22, 2000

Date of Adoption of Agency: August 22, 2000

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066
PERMANENT PETITION 2000-11 (R-118-00)
STATE ENVIRONMENTAL COMMISSION**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) 445B. This permanent regulation deals with amendments to the air pollutant stationary source control program

1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

Petition 2000-11 (R-118-00), was noticed four (4) times: July 20, July 25, July 26 and August 3, 2000 as a permanent regulation in the Las Vegas Review Journal and the Reno Gazette-Journal newspapers. Workshops were held August, 2000 prior to the hearing. Affected stations were mailed the proposed rules, including other interested parties. The regulation was adopted by the State Environmental Commission on August 22, 2000. No written or verbal public comments were received by the Commission at the hearing supporting or opposing this permanent regulation were received. The public was also mailed the notice of intent and agenda through the Environmental Commission's mailing list. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (775) 687-4670 extension 3117, or writing to the Commission at 333 W. Nye Ln., Room 138, Carson City, Nevada 89706-0851.

2. The number persons who:

(a)	Attended each hearing;	25
(b)	Testified at each hearing:	0
(c)	Submitted to the agency written comments:	2

3. A description of how comment was solicited from affected businesses, a summary of their response, and a explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses by the notices in the newspapers, as outlined in #1 and by direct mail to interested persons subscribing to the Commission's mailing list. See above statement for dates of the public notices and public workshops. No oral testimony was received that opposed or supported the permanent regulation. Written comments critical and concurrently supportive of the proposal were received from the Sierra Pacific Power Company (exhibit 4) and Southern California Edison (exhibit 5). Comments focused on how the 20 % opacity, which due to rounding could possible be 1 % more stringent then federal New Source Performance Standards. Other comments focused on the need to resolve technical calculation of opacity data required to be compiled, and the need for data being gathered to be comparable to other states. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (775) 687-4670 or writing to the Commission at 333 W. Nye Ln., Room 138, Carson City, Nevada 89706-0851.

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The permanent regulation was adopted by the State Environmental Commission on August 22, 2000 with no amendments. No action was taken on proposed amendments since the consequence of amendments were not clearly ascertained.

5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:

(a) Estimated economic effect of the regulation on the business which it is to regulate;

There will be no adverse economic impact upon the regulated business community. The amendments will reduce the time required to collect measurements from one-hour to six minutes per emission unit, resulting in an economic benefit to regulated sources. The exact economic benefit will vary depending upon the number of units to be evaluated by each regulated facility.

(b) Estimated economic effect on the public;

The adoption of this regulation is not anticipated to have a direct short or long term adverse economic impact upon the public.

6. The estimated cost to the agency for enforcement of the adopted regulation.

There is no additional cost to the agency for enforcement.

7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

The regulations do not overlap or duplicate any regulations of another state or local governmental agency.

8. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

The regulations are no more stringent than federal regulations. The amendment incorporates Title 40 CFR Part 60.42(a)(2) and Part 60.42(a)(b) which is administered by the federal Environmental Protection Agency.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

This regulation does not provide for a new fee or increase of an existing fee.

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**FILED PERMANENT REGULATION OF THE
NEVADA STATE ENVIRONMENTAL COMMISSION**

LCB File No. R118-00

September 25, 2000

Explanation - Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

Authority: §§1 and 2, NRS 445B.210.

Section 1. NAC 445B.264 is hereby amended to read as follows:

445B.264 1. Owners or operators of all continuous monitoring systems for *the* measurement of opacity shall reduce all data to 6-minute averages and for systems other than opacity to 1-hour averages. ~~[Six-minute opacity averages must be calculated from 24 or more data points equally spaced over each 6-minute period.]~~

2. For systems other than opacity, 1-hour averages must be computed from four or more data points equally spaced over each 1-hour period.

3. Data recorded during periods of system breakdowns, repairs, calibration checks, and zero and span adjustments must not be included in the data averages computed under this section. An arithmetic or integrated average of all calibrated data must be used. The data output of all continuous monitoring systems may be recorded in reduced or nonreduced form, e.g., ppm pollutant and percent O₂ or lb/million Btu of pollutant.

4. All excess emissions must be converted into units of the standard using the applicable conversion procedures specified in NAC 445B.001 to 445B.395, inclusive. After conversion into units of the standard, the data may be rounded to the same number of significant digits used in those sections to specify the applicable standard, e.g., rounded to the nearest 1 percent opacity.

5. As used in this section, "calibrated data" means data which is precise and accurate within a stated acceptance criteria for the instrument.

Sec. 2. NAC 445B.354 is hereby amended to read as follows:

445B.354 1. ~~[Unless]~~ *Except as* otherwise provided in *this section and* NAC ~~[445B.354 to 445B.357, inclusive,]~~ *445B.355 and 445B.357*, no owner or operator may cause or permit the discharge into the atmosphere from any ~~[stationary source of any regulated air pollutant for a period or periods aggregating more than 3 minutes in any 1 hour]~~ *emission unit* which is of an opacity equal to or greater than 20 percent. *Opacity must be determined by one of the following methods:*

(a) If opacity is determined by a visual measurement, it must be determined as set forth in Reference Method 9 in Appendix A of 40 C.F.R. Part 60.

(b) If a source uses a continuous monitoring system for the measurement of opacity, the data must be reduced to 6-minute averages as set forth in 40 C.F.R. §60.13(h).

2. ~~[NAC 445B.354 to 445B.357, inclusive,]~~ *The provisions of this section and NAC 445B.355 and 445B.357 do not apply ~~[if the presence of]~~ to that part of the opacity that consists of uncombined water. ~~[is the only reason for the failure of an emission to comply with those sections.]~~* The burden of proof to establish the application of this exemption is upon the person seeking to come within the exemption.

3. *If the provisions of 40 C.F.R. Part 60, Subpart D or Da apply to an emission unit, the emission unit must be allowed one 6-minute period per hour of not more than 27 percent opacity as set forth in 40 C.F.R. § 60.42(a)(2) and 40 C.F.R. § 60.42a(b).*

4. The continuous monitoring system for monitoring opacity at a facility must be operated and maintained by the owner or operator specified in the permit for the facility in accordance with NAC 445B.256 to 445B.267, inclusive.

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